

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DARRELL DANIEL,)	
)	
Plaintiff,)	Civil Action No. 7:21cv00205
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
DR. PHILLIP SMITH,)	By: Hon. Thomas T. Cullen
)	United States District Judge
Defendant.)	

Plaintiff Darrell Daniel, a Virginia inmate proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983. On December 29, 2021, Defendant Dr. Phillip Smith filed a motion for summary judgment. (ECF No. 17.) On December 30, 2021, the court issued a notice pursuant to *Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 2005). (ECF No. 19.) The *Roseboro* notice gave Daniel 21 days to file a response to the motion for summary judgment and advised him that, if he did not respond to Dr. Smith’s motion, the court would “assume that Plaintiff has lost interest in the case, and/or that Plaintiff agrees with what the Defendant states in their responsive pleading(s).” (*See* ECF No. 19.) The notice further advised Daniel that, if he wished to continue with the case, it was “necessary that Plaintiff respond in an appropriate fashion,” and that if he failed to file a response to the motion within the time allotted, the court “may dismiss the case for failure to prosecute.” (*Id.*)

Daniel did not respond to the defendant’s motion and, therefore, the court will dismiss this action without prejudice for failure to prosecute.

The clerk is directed to forward a copy of this Memorandum Opinion and accompanying Order to the parties.

ENTERED this 18th day of May, 2022.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE